

State of California

Department of Insurance

45 Fremont Street

San Francisco, California 94105

CALIFORNIA CODE OF REGULATIONS, TITLE 10

CHAPTER 5, SUBCHAPTER 3

ADOPT ARTICLE 20 TO READ:

Article 20. Standards Applicable to Workers' Compensation Claims Adjusters and Medical Billing Entities and Certification of those Standards by Insurers.

Section 2592 Authority and Purpose

These regulations are promulgated pursuant to authority granted to the Insurance Commissioner under the provisions of Section 11761 of the California Insurance Code. The purpose of these regulations is to set forth the minimum standards of training, experience, and skill that workers' compensation claims adjusters, including adjusters working for medical billing entities, must possess to perform their duties with regard to workers' compensation claims and to specify how insurers must meet those standards.

NOTE: Authority and reference cited: Section 11761 of the Insurance Code

Section 2592.01 Definitions

For purposes of these regulations:

- (a) "Certify" means a written statement made under penalty of perjury.
- (b) "Claims adjuster" means a person who, on behalf of an insurer, is responsible for determining the validity of a workers' compensation claim, including a "medical only" claim. The adjuster may also establish a case reserve, approve and process indemnity and medical benefits, may hire investigators, attorneys or other professionals and may negotiate settlements of claims. "Claims adjuster " also means a person who is responsible for the immediate supervision of a claims adjuster but does not mean an attorney representing the insurer or a person whose primary function is clerical.
- (c) "Classroom" means any space sufficiently designed so that the instructor and students can communicate with a high degree of privacy and relative freedom from outside

interference. The instructor may be physically present or may communicate with students by means of an electronic device.

(d) "Course" means any program of instruction taken or given to satisfy the requirements of Insurance Code Section 11761.

(e) "Curriculum" means a course of study that satisfies the requirements of Insurance Code Section 11761. The curriculum must provide sufficient content, including time allocated to each subject area, to enable claims adjusters to meet minimum standards of training, experience, and skill to perform their duties with regard to workers' compensation claims.

(f) "Experienced claims adjuster" means a person who has had at least five years within the past eight years of on-the-job experience adjusting California workers' compensation claims and has been certified as an experienced claims adjuster by an insurer. A person who has successfully completed the written examination specified by Title 8, Section 15452 of the California Code of Regulations is an experienced claims adjuster, provided that he or she has either worked as a workers' compensation claims adjuster continuously since passing the examination; had at least five years of experience working with California workers' compensation within the past eight years; or has passed the examination within the previous five years.

(g) "Experienced medical-only claims adjuster" means a person who has had at least three years within the past five years of on-the-job experience adjusting California workers' compensation medical-only claims and has been designated as an experienced medical-only claims adjuster by an insurer or a person meeting the training requirements of this regulation and certified by an insurer.

(h) "Instructor" means a person who conveys curriculum content to students on behalf of an insurer, a training entity, or a medical billing entity. An instructor shall have at least eight (8) years of experience in the workers' compensation system in the previous 12 years, including at least four years of experience with California workers' compensation. Persons knowledgeable about specific workers' compensation issues may train students under the supervision of an instructor.

(i) "Insurer" means an insurance company admitted to transact workers' compensation insurance in California, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure from the Department of Industrial Relations pursuant to Labor Code Section 3700(b) or (c) or a third party administrator that has a secured a certificate of consent pursuant to Labor Code Section 3702.1.

(j) "Medical billing entity" means an entity that is not an insurer as defined herein that reviews or adjusts workers' compensation medical bills for an insurer.

(k) "Post-certification training" means a course of study provided to trained and/or experienced workers' compensation claims adjusters. Post-certification training also

includes seminars, workshops, or other informational meetings pertaining to California workers' compensation.

(l) "Student" means an individual taking a course that is required for that person in order to be a workers' compensation claims adjuster.

(m) "Training" means to provide a course of instruction that includes the topics specified in Sections 2592.04 and 2592.05.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.02 Training Required For Claims Adjusters

(a) Every insurer shall require all claims adjusters who handle workers' compensation claims, other than those who are exempt from the requirement of such training pursuant to paragraph (f) and (g) of Section 2592.01, to be trained pursuant to this subparagraph:

(1) The insurer shall require at least 160 hours of training for claims adjusters, at least 120 hours of which shall be conducted in a classroom with an instructor. The insurer shall require at least 120 hours of training for claims adjusters who adjust only claims where medical benefits and not indemnity benefits are provided or at issue, at least 80 hours of which shall be conducted in a classroom with an instructor. On the job training shall be done under the supervision of an instructor or an experienced claims adjuster.

(2) A medical-only claims adjuster who has completed 120 hours of training pursuant this section may be certified as a claims adjuster upon completion of 40 additional hours of workers' compensation claims training, provided that such training is completed within six months of the claims adjuster beginning to adjust claims that include indemnity benefits.

(b) The training required by this section shall be completed within a twelve consecutive month period, during which time a claims adjuster trainee may adjust claims under the supervision of an experienced claims adjuster.

(c) Any classes or courses taken within two years before the effective date of these regulations that satisfy the curriculum requirement may be used to meet the hourly requirements upon verification by the student of the type of course taken, the course of study, the date or dates taken, the instructor or organization providing the class or course, and the number of hours taken.

(d) Beginning January 1, 2005, every insurer shall require a minimum of 30 hours of post-certification training every two years for all experienced claims adjusters and experienced medical only claims adjusters. Such post-certification training may include seminars, workshops, or other informational meetings pertaining to California workers' compensation.

(e) The insurer may provide the training directly or by sending its employees to be trained by another entity. A workers' compensation insurance company or self-insured employer shall certify that the course of instruction provided to its own staff or which is provided to the claims adjusters who work for a third party administrator which adjusts claims for the insurance company or self-insured employer meets all the requirements set forth in this Article and that all of the claims adjusters who adjust claims on behalf of the insurance company or self-insured employer have actually attended the training for the required number of hours.

(f) An adjuster who has been certified by an insurer as having completed the training required by this subchapter shall not be required to be re-trained and re-certified in order to adjust claims for a different insurer.

(g) An insurer may not employ an individual in the capacity of claims adjuster who has not been trained pursuant to this Article or who is not an experienced claims adjuster, except that an individual who is undergoing training may adjust claims under the direct supervision of an experienced claims adjuster.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.03 Curriculum

(a) The course of study required by Section 2592.02 for claims adjusters who handle claims that include both medical and indemnity benefits shall include but not be limited to the following topics:

1. Historical overview of the workers' compensation system.
2. Organizational structure of the system.
3. The workers' compensation insurance policy, its forms and endorsements, insurance principles of compensation.
4. Concepts and terminology.
5. Benefit provisions.
6. Compensability.
7. Notice requirements.
8. Temporary disability.
9. Permanent disability, including evaluation and rating.

10. Death benefits.
11. Return to work and vocational rehabilitation.
12. Cumulative trauma.
13. Serious and willful misconduct.
14. WCAB procedures, forms, hearings, and penalties.
15. Investigation.
16. Fraud.
17. Medical terminology.
18. Knowledge and use of utilization guidelines (American College of Occupational and Environmental Medicine or other guidelines approved by the Administrative Director of the Division of Workers' Compensation.)
19. Medical evidence.
20. Fee schedules.
21. Liens.
22. Apportionment.
23. Subrogation.
24. Reserving.
25. Ethical issues.

(b) The course of study required for the training of claims adjusters who adjust only claims where medical benefits and not indemnity benefits are provided or at issue, shall include, at a minimum, topics relevant to workers' compensation medical care and benefits.

(c) The course of study required by Section 2592.02(d) shall include changes in the law that affect workers' compensation claims and other topics relevant to the work of a trained and/or experienced claims adjuster.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.04 Training Required for Medical Bill Reviewers

Entities that review medical bills on behalf of an insurer shall require all personnel employed as bill reviewers to be trained. The medical bill review entity shall require at least 40 hours of training for medical bill reviewers, at least 30 hours of which shall be conducted in a classroom by an instructor. No more than 10 hours of training may be on-the-job training.

- (a) The training required by this section shall be completed within a six month period, during which time a medical bill review trainee may review bills under appropriate supervision.
- (b) Beginning January 1, 2005, every entity that reviews medical bills on behalf of an insurer shall require a minimum of 16 hours every year of post-certification training for all medical bill reviewers, including those who have been trained and certified pursuant to this chapter.
- (c) The entity that reviews medical bills may provide the training directly or by sending its employees to be trained by another entity. The medical bill review entity shall certify that the course of instruction it provides or that is provided by another entity meets all the requirements set forth in this section and that all of its bill reviewers have actually attended the training.
- (d) A medical bill reviewer who has been certified by a medical bill review entity as having completed the training required by this Article shall not be required to be re-trained and re-certified in order to review bills for a different medical bill review entity.
- (e) The topics for the training of medical bill reviewers shall include but not be limited to the following topics:

- (1) the correct use of billing codes and detection of improper use of billing codes.
- (2) All fee schedules applicable to workers' compensation medical care.
- (3) Workers' compensation benefit provisions.
- (4) Cumulative trauma.
- (5) WCAB procedures, forms, hearings, and penalties.
- (6) Fraud.
- (7) Medical terminology.
- (8) Utilization guidelines (ACOEM or other AD-approved guidelines.)
- (9) Medical evidence.
- (10) Liens.
- (11) Ethical issues.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.05 Accreditation

- (a). A Certificate of Completion in the form and manner determined by the commissioner shall be provided by the insurer or medical billing entity to any person who successfully completes the adjuster training, including the curriculum subjects required by section 2592.03 herein or the medical bill review training required by Section 2592.04, respectively.**

(b). An Experienced Claims Adjuster Certificate in the form and manner determined by the commissioner shall be provided by the insurer or training entity sponsored by the insurer to any person who has at least five years of on-the-job experience of handling workers' compensation claims in California within the past eight years and has successfully completed the post-certification training including the curriculum subjects required by section 2592.03.

(1) Failure of a claims adjuster described in Section 2592.01(f) to fulfill the requirement for post-certification training every two years shall result in that claims adjuster being no longer considered an experienced claims adjuster.

(2). A person who had been an experienced claims adjuster but who had not fulfilled the post-certification training requirement may fulfill such requirement at any time within five years of having become an experienced claims adjuster and may thereafter be considered an experienced claims adjuster. The post-certification training required under this subparagraph is 30 hours for every two years subsequent to the time when the claims adjuster had become an experienced claims adjuster.

(c) Upon request by a policyholder or an injured worker whose claim is being adjusted by a claims adjuster, the insurer employing the claims adjuster shall provide a copy of the claims adjuster's Certificate of Completion or Experienced Claims Adjuster Certificate to the requesting policyholder or injured worker.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.06 Maintenance of Records

(a) An insurer shall maintain records pertaining to the training of the adjusters in its employ for whom training has been provided or sponsored, or who were trained by another insurer, for eight (8) years after the adjuster has completed the training. If the trained claims adjuster is employed by an insurer other than the insurer providing the training, the insurer that provided the training shall send copies of the adjuster's records pertaining to training to the insurer employing the adjuster within 20 days after a request for the records has been sent. The records which shall be kept in the form and manner specified by the commissioner shall contain the following information:

(1). Name and address of adjuster.

(2). Date training completed.

(3). Name, address, and telephone number of training entity.

(b) All insurers shall maintain a record of all courses given to comply with this chapter. The record shall include:

(1) The name and business address of all students, along with the beginning and ending date of the training of the student and a statement stating whether or not the student has completed the training in all topic areas required to be covered.

(2) A complete description of the curriculum, including all topics covered with a detailed statement of how much time was spent training students in each topic.

(c) All records maintained pursuant to this Article shall be made available to the Insurance Commissioner and to the Administrative Director of the Division of Workers' Compensation.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code

Section 2592.07 Submission of Documents

Insurers shall submit all documents described in Section 2592.07(b) under penalty of perjury to the commissioner. The commissioner shall publish on the Department of Insurance public web site sufficient information submitted pursuant to this subsection to allow policyholders to choose an insurer that has an adequately trained staff of claims adjusters.

NOTE: AUTHORITY and reference cited: Section 11761 of the Insurance Code